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IN THE HIGH COURT OF JUDICATURE AT BILASPUR
(CHHATISGARH)

WRIT PETITION NO. 293 OF 2003

PETITIONER

Chandrama Ram, S/o Ram Surat Ram, aged about 56 years, R/o Korea Colliery Area, District Korea (C.G.)

P. R. No. 179/03
Presented by Shri Dilip Kumar Shrivastava
dated 16.01.03

VERSUS

RESPONDENTS

1. South Eastern Coalfields Ltd. A subsidiary company of Coal India Limited, having its through its Registered Office at Seepat Road, Bilaspur through Chairman-cum-Managing Director, Bilaspur.

2. Chief General Manager, Chirmiri Area, South Eastern Coalfields Limited, P.O. West Chirmiri, District Korea (CG)

3. Mines Manager, Korea Colliery, South Eastern Coal-fields Ltd. Distt. Korea (C.G)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARI, MANDAMUS PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS:

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The petitioner above-named most respectfully submit as under:

1. PARTICULARS OF THE PETITIONERS:

As mentioned in the Cause Title above.

2. PARTICULARS OF THE RESPONDENTS:

As mentioned in the Cause Title above.

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 293 of 2003

Petitioner : Chandrama Ram

Versus

Respondent : South Eastern Coalfields Ltd. & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Ashish Shrivastava, Advocate and Shri Amit Verma, Advocate for the petitioner.

Shri Yogesh Pandey, Advocate for the respondents.

ORAL ORDER

(20th February, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. The petitioner was initially appointed as Mazdoor Category in Koria Colliery on 1.4.1965. The petitioner, at the time of joining the service had declared his date of birth as 2.3.1945 supported by 5th Class examination certificate (Annexure P/1). In the entire service records the date of birth of the petitioner was continuously recorded as 2.3.1945. According to the petitioner, after a period of 10 years, in Mining Sirdar's certificate, issued by the Director General of Mines (Safety), the date of birth of the petitioner was wrongly recorded as 15.7.1942. The petitioner has challenged the said recording of the date of birth as 15.7.1942 by filing representations to the respondents/authority. Two representations dated 3.8.2000 and 18.4.2001 (Annexure P/7 and P/8) were made to the Director General of Mines (Safety) to the effect that the date of birth recorded in Sirdar's certificate does not reflect date of birth recorded in the service book of the petitioner, which is final. The respondents/authority

referred the dispute to the age determination committee as provided in the National Coal Wages Agreement-III. The age determination committee after having examined all the service records of the petitioner came to the conclusion that the date of birth of the petitioner was 1.4.1947 vide office order dated 17.5.2000 (Annexure P/12).

2. Earlier vide order dated 29.4/2.5.2002 (Annexure P/15), addressed to the Supdt. of Mines/Manager, Colliery, retirement notice was issued to the petitioner to retire him from services w.e.f. 31.7.2002 on attaining the 60 years of age on 15.7.2002. Later on vide order dated 6.5.2002 (Annexure P/16) the earlier retirement notice was cancelled, on the basis of the information received, in regard to the determination of the age by the age determination committee. Thereafter vide impugned order dated 19.8.2002 (Annexure P/7) retirement notice was again issued to the petitioner mentioning that on the basis of Mining Sirdar's certificate, 60 years of the age of the petitioner has been completed, as such, the petitioner is being retired w.e.f. 19.8.2002 itself.

3. Learned counsel for the respondents submits that the matter was referred to the age determination committee, as there was a dispute in the date of birth of the petitioner. Admittedly, the age determined by the age determination committee was binding on both sides and the committee vide its order dated 17.5.2000 has determined the age of the petitioner as 1.4.1947. It is not clear when the earlier retirement notice was cancelled on the basis of the decision of the age determination committee, what were the circumstances, which persuaded the respondents to issue the impugned order dated 19.8.2002, retiring the petitioner from his service.

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4. The petitioner has filed this petition seeking a direction of this Court to the effect that the respondents be directed to reinstate the petitioner in service and allow him to continue till he attains the age of superannuation, considering his date of birth as 1.4.1947 with all consequential benefits. This prayer is based on the finding recorded by the age determination committee. The finding of the age determination committee is binding as per the National Coal Wages Agreement-III on both the parties. The respondents have not questioned the authenticity of the date of birth determined by the age determination committee in any of the proceedings or by referring the matter again to the age determination committee. In so far as the present case is concerned, the date of birth i.e. 1.4.1947, determined by the age determination committee, which remained unchallenged by the respondents, is final.

5. In view of the foregoing, this petition is allowed and the respondents are directed to give effect to the date of birth recorded by the age determination committee i.e. 1.4.1947 by reinstating the petitioner and granting all the consequential benefits within a period of one month from the date of receipt/production of copy of this order. No order as to costs.

6. Before parting with the case, I must mention about the conduct of the respondents. The respondents have attempted to conceal the relevant facts despite this court's order dated 24.1.2006 whereby the respondents were directed to produce National Coal Wage Agreement, indicating the status of the age determination committee as well as its binding effect on the party. The respondents have deliberately and intentionally kept the information back so that the case could not properly be adjudicated. The conduct of the respondents is despicable

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and condemnable. However, in the facts of the case, when the age determination committee, which is constituted by the respondents themselves and is a statutory body, as provided under the National Coal Wage Agreement, has determined the age of the petitioner i.e. 1.4.1947, is final in the case of the petitioner.

Certified copy, as per Rules.

Sd/-
Satish K. Agnihotri
Judge